



Division of Agricultural Conservation & Technical Assistance

Agricultural Energy Grant Program

Fiscal Year 2012

(July 1, 2011 to June 30, 2012)

Request for Response (RFR): RFR File: AGR-AGENERGY-2012

For the implementation of agricultural projects that
improve energy efficiency
and facilitate alternative clean energy needs

Responses must be received by MDAR or postmarked no later than 5:00 PM on June 30, 2011.

Contact: Gerry Palano
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Massachusetts Department of Agricultural Resources
251 Causeway Street, Suite 500
Boston, MA 02114

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REQUEST FOR RESPONSE
RFR File Name/Title: Agricultural Energy Grant Projects

This Request for a Response (RFR) contains three (3) sections. Section I is a description of the program. Section II is the program response form. Section III contains more detailed information about the RFR specifications and requirements, including funding allocations.

Section I: Description of Ag-Energy Grant Program

1. Purpose

The Massachusetts Department of Agricultural Resources (MDAR) requests Massachusetts agricultural operations to submit proposals seeking funding for agricultural energy projects in an effort to improve energy efficiency and to facilitate adoption of alternative clean energy technologies in order that they can become more sustainable and the Commonwealth can maximize the environmental and economic benefits from these technologies. Reimbursement grants of up to \$30,000.00 will be awarded on a competitive basis. Agricultural operations with less access to federal and state electric and natural gas energy efficiency incentive rebate and grant programs are encouraged to apply. All projects must be completed by June 30, 2012.

MDAR is soliciting proposals for both the Agricultural Environmental Enhancement Program (AEEP) and Ag-Energy Program during the same timeframe. Projects with a primary focus to improve air and water quality and to conserve water need to apply to AEEP. See the AEEP RFR for respective program's details. Also see Section I.3, Ineligible Proposals, set forth herein. Applicants **CANNOT** apply to and receive funding from both programs (AEEP and Ag-Energy) for the same project but must select the appropriate program based on the RFR information provided for each program.

Though all farm related energy efficiency and renewable energy projects that meet Ag-Energy Program requirements will be considered, higher priority project proposals should focus on either of two (2) specified categories and respective technologies listed in Section I.2., Project Categories, set forth herein.

2. Project Categories

Category One:	Energy Efficiency: To include any conventional energy efficiency technology project with high priority placed on projects that employ the following technologies:
Dairy Energy Efficiency	<ul style="list-style-type: none"> • Precooler • Variable Speed Vacuum Pumps • Refrigeration Heat Recovery
Greenhouse/Nurseries	<ul style="list-style-type: none"> • Thermal blankets • Roof venting modifications to eliminate mechanical ventilation needs • Efficient heating distribution modifications – e.g. bench/soil in combination with staged control • Electronic controls
Higher Efficiency Advanced Low Emissions Indoor Furnaces or Boilers	<ul style="list-style-type: none"> • Condensing type, central or unit heater utilizing conventional fuels • Maple sap evaporator wood furnaces
Other Technologies	<ul style="list-style-type: none"> • High efficiency refrigeration, optimally with heat recovery • Reverse osmosis equipment for maple sugaring operations • Process heat recovery • Energy efficient technologies advancing urban food gardens

Category Two:	Renewable Clean Energy Technologies: To include any proven technology with high priority placed on projects employing the following:
All Sectors	<ul style="list-style-type: none"> • Photovoltaics • Wind • Solar Thermal • Geothermal • Bio-fuel Crop - those shown to be grown on marginal soils or used in crop rotation • Bio-fuel Production - provided demonstration of all federal, state and local process permits and approvals are identified and will be provided as part of the project installation, including but not limited to product pre- and post- storage, hazardous materials, and process effluents • High Efficiency Advanced Gasification Biomass - thermal boilers or furnaces intended for indoor use only, utilizing wood pellets, wood chips or kernel corn, meeting all current federal, state and/or local construction, emission and efficiency standards, and regulations and certified for MA installation • Advanced Biomass (gasification) Outdoor Wood Boilers (OWB) - meeting all current federal, state and/or local construction, emission and efficiency standards, and regulations Requirements that must be met include a demonstration that the OWB system shall: <ul style="list-style-type: none"> a. meet all local Board of Health requirements b. be installed and certified under Mass Department of Environmental Protection c. comply with all certified equipment requirements; MassDEP certified OWB equipment is listed at: www.mass.gov/dep/air/community/certohh.htm • Renewable technologies advancing urban food gardens

3. Eligibility

Eligible Applicants

- Agricultural operations as defined by M.G.L.128, Sec. 1A, agricultural commodity associations, agricultural support organizations, agricultural cooperatives, Massachusetts companies (incorporated with the Commonwealth, whether for profit or non-profit), individuals, public and non-public entities for the development and implementation of new procedures for energy conservation and efficiency, renewable and alternative energy sources to assist the Commonwealth's agricultural community to grow and develop who:
 - are legally recognized entities within the Commonwealth and have the ability to enter a legally binding agreement with the Commonwealth;
 - have demonstrated the capacity to implement and administer projects and programs as defined in the responsive proposals to this RFR;
 - demonstrate evidence of a match of dollars or of in-kind support to the funding requested by the responsive proposal to this RFR.
- Applicant's farming operation must have received an energy audit/energy assessment, or demonstrate the initiation of such which shall be completed as part of program fulfillment.

Eligible Proposals

- Energy efficiency and renewable energy projects that support agricultural operations as defined by M.G.L.128, Sec. 1A.
- Projects should include or demonstrate the commitment of procuring professional services, design and/or engineering support for materials and labor involved in building the project, as well as an energy efficiency and/or renewable energy assessment or audit documenting projected energy savings and project cost-benefit.
- Projects receiving and/or applying to receive other program funds, such as CEC (MA Clean Energy Center), USDA REAP, USDA EQIP, MFEP, MA SRECs (MA Solar Energy Renewable Energy Certificates - www.mass.gov/Eoeea/docs/doer/rps/SQA%20RPS%20Class%20I%20-%202016-10%20Edition.pdf) and Federal Investment Tax Credit (ITC) or Cash Option - www.treas.gov/recovery/1603.shtml, known or anticipated, must provide this information by agency in Section II.3A/3B Project Economic as set forth herein and shall be considered as funds contributed to those relevant projects.
- Demonstration of balance of funding to complete the project implementation is necessary.
- Cost Share is required either in the form of cash or in-kind services.
- Preference shall be given to applicants with construction related projects and to those projects that have completed or will be in the process of design engineering, receiving quotes for materials and labor from qualified professionals engaged in the field of work specified, intend to begin and complete the construction/implementation stage and can demonstrate balance of funding to implement the proposed project.
- All renewable energy projects shall be considered with higher priority given to non-utility scale or non-large scale commercial projects that demonstrate predominantly agricultural, agriculturally related or local community related renewable energy usage, either on-site and/or through net metering. For the purposes of this solicitation, utility-scale and large-scale projects shall be considered those that are 500kW and greater and generate more than 150% of average annual or projected agricultural, agriculturally related or local community related energy usage.

Ineligible Proposals

- Proposals from applicants whose operation is out of compliance with any federal, state or local laws or regulations.
- Proposals from applicants failing to meet requirements for previous MDAR Standard Contracts and/or assistance programs or from applicants with poor past contract performance as determined by MDAR.
- Requests for audits or feasibility studies.
- AEEP projects including, though not limited to, auto-irrigation systems, replacement irrigation pumps, and outboard motors.

4. Funding Details

- Maximum funding per project shall be \$30,000.00, which shall be for the direct costs associated with the materials and labor associated with implementing the project.
- As MDAR would like to fund as many credible and eligible projects as possible, MDAR encourages projects requesting less than the maximum \$30,000.00.
- Though there is no maximum percentage of total project cost funding that can be requested, it is desired that projects are able to demonstrate contributions from other sources. This includes evidence of a match of dollars or of in-kind support to the funding requested in this RFR.
- This is a competitive reimbursement Grant program. However, at the sole discretion of MDAR, up to 30% funding may be provided upfront. Minimally, necessity and proof of an executed contract with vendor/installer/contractor is required. Awarded grants shall result in a contract between MDAR and the agricultural producer or agricultural operation.
- **Any incurred project costs that occur prior to an executed contract are NOT eligible for reimbursement.**
- Funding requests can be for specific components of a project, not necessarily the entire project. However, an applicant must demonstrate that the result of such a request will still result in a complete functional and operable system.
- In general, funding preference shall be given to construction related projects and to those projects that have completed or will be in the process of design engineering, receiving quotes for materials and labor from qualified professionals engaged in the field of work specified, intend to begin and complete the construction/implementation stage and can demonstrate balance of funding to implement the proposed project. The finalized expected deliverable will be either energy efficiency or clean renewable energy project implementation. Completed schematic design, design development, or construction drawings shall be presented in the form of both drawings and written specifications.
- All construction shall be completed and installed in accordance with all applicable federal, state and local codes, ordinances and regulations. Equipment and materials must be considered new and shall meet relevant IEEE certifications and must be UL listed.

Awarded applicants shall provide bi-monthly reporting of project progress to MDAR upon request and have signage on the site showing the project was funded in part by MDAR.

5. Criteria for Evaluation

Responses to the RFR are evaluated based upon criteria which are ranked in importance by awarding points, including review of the following:

- Project application is in compliance with the submission requirements and format presentation for this RFR.
- Adequate supporting project documentation in the form of energy audits, assessments, contractor quotes and plans and equipment and material specifications.
- Adequate project economics for either energy efficiency or renewable energy as defined herein.
- Adequate identification of permit needs.
- Adequate project implementation schedule.
- Adequate identification of any on-going operation & maintenance and/or periodic replacement needs and how they will be accomplished to ensure project longevity.
- Project has a realistic opportunity to be a successful long term implementation given the expected life of the equipment and the resulting cost savings, cost avoidance and other revenue streams contributing to the project cash flow.
- Project has a realistic opportunity to be a successful implementation given the scope, budget, necessary permits and timeline.
- Team make-up and past experience and demonstrated capacity and ability to administer projects of the scope and value described by the responsive proposal to this RFR.
- Project demonstrates funding from other or in-kind sources.
- Applicant demonstrates the capacity to implement and administer projects and programs as defined in the responsive proposals to this RFR.
- Applicants that have been previously funded will be considered a lower priority for funding.
- Applicants that are actively engaged in commercial agricultural will be considered a higher priority for funding.
- Preference shall be given to applicants with construction related projects and to those projects that have completed or will be in the process of design engineering, receiving quotes for materials and labor from qualified professionals engaged in the field of work specified, intend to begin and complete the construction/implementation stage and can demonstrate balance of funding to implement the proposed project
- All project priorities and preferences stated herein.

6. Instructions for Submission of Responses

A proposal form is attached and must be completed and mailed/delivered to MDAR or postmarked by the response date deadline. Applications that are sent by fax or electronically will NOT be accepted.

Applications must have US Postal Service date stamp no later than **June 30th, 2011** or may be hand delivered by **5:00 PM on June 30th, 2011**. All materials must be sent to the attention of:

Department of Agricultural Resources
Laura Maul
Program Coordinator
251 Causeway Street, Suite 500, Boston, MA 02114

- MDAR cannot guarantee that any particular grant will be awarded under this RFR. Any potential Contract with a successful responder will be subject to the availability of funds consistent with the terms of a Response to this RFR, any rules or decisions of MDAR, and all relevant laws and regulations.
- **All funding is subject to appropriation.**

Official Use Only

Date Received: _____

Received By: _____

Section II**AGRICULTURAL ENERGY GRANT RESPONSE FORM (Fiscal Year 2012)**

All of the information on this application must be completed or identified as Not Applicable.

1. Agricultural Operation Information:Name: _____ Owner: _____
(if different)Operation Name: _____ Legal Structure: _____
(e.g. Trust, LLC)

Farm Location: _____

Municipality: _____ Zip Code: _____ County: _____

Assessor's Parcel Number: _____ Email: _____

Home Telephone: _____ Mobile Telephone: _____

How did you hear about this program? ☐ Website ☐ Workshop ☐ Ag-event
☐ Previous Applicant ☐ Other: _____**2. Mailing Address for Farm (if different from above):**

Address: _____

Municipality: _____ Zip Code: _____

3. Agricultural Operation Details:

Type of Operation: _____

Acreage Owned: _____ Acreage in Production: _____ Cropland Rented/Lease: _____

Crops Grown and Acreage: _____

Livestock Type							
Number of Livestock							

Involved with Other DAR Programs? ☐ AEEP ☐ FVEP ☐ MEGA ☐ APR ☐ MFEPProposed Project Involved with Other State/Federal Funding Programs? ☐ CEC ☐ SRECs ☐ USDA REAP ☐ USDA NRCS ☐ ELEC/NAT GAS ☐ FED ITC/CASH OPTION

4. Project Details: (Attach additional documentation if necessary)		
Issue(s) of Concern:	<input type="checkbox"/> Energy Efficiency	<input type="checkbox"/> Renewable Energy
Is proposed project listed in the 'Project Categories' found in Section 2? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Section 1:	Provide a clear description of the proposed project to be implemented to achieve the objectives of this grant program including the category being applied under.	

Section 2:	Energy Audits: (Please attach all supporting documentation)	
	Was an energy audit or energy assessment conducted for this site and/or project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Name of individual and/or company providing the energy audit or assessment:	_____
	Was a renewable energy assessment conducted for the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Name of individual and/or company providing renewable energy assessment:	_____
Section 3A:	Project Economics: Energy Efficiency Projects	
	Total Project Costs:	\$
	Expected Annual Cost Savings:	\$
	Expected Known and/or Anticipated Rebates and Grants:	
	Electric/Gas Utility Energy Efficiency Incentives	\$
	MA Farm Energy Program (MFEP)	\$
	USDA REAP or USDA EQIP	\$
	Other (please list): _____	\$
	Balance of Funding:	
	MDAR Ag-Energy Request	\$
	Personal Cash or Other Funds	\$
	From this information provide a simple payback: (Years) = (\$Total Project Cost – Known/Anticipated \$Rebates Incentives)/(\$Cost Savings/Year)	_____ years
Section 3B:	Project Economics: Renewable Energy Projects	
	Total Project Costs:	\$
	Expected Annual Cost Savings:	\$
	Expected Known and/or Anticipated Initial or On-Going Revenue:	
	Clean Energy Center (CEC)	\$
	USDA REAP/EQIP	\$
	Mass Farm Energy Program (MFEP)	\$
	Renewable Energy Credits (RECs, SRECs)	\$
	Federal Investment Tax Credit (ITC)	\$
	Other (please list): _____	\$
	Balance of Funding:	
	MDAR Ag-Energy Request	\$
	Personal Cash or Other Funds	\$
	From this information provide a simple payback: (Years) = (\$Total Project Cost – Known/Anticipated \$Rebates/Grants/ITC Incentives)/(\$Cost Savings + RECs/SRECs/Year)	_____ years

Section 4:	Permits: (Provide a list of all necessary permits and when they will be secured for the project)
Section 5:	Schedule: (Provide a schedule of implementation including design, permits, site mobilization, purchases, delivery, installation, start up, customer training, etc.)
Section 6:	Warranties: (Provide a list of all project warranties and guarantees)
Section 7:	Operation & Maintenance: (Provide operation and maintenance necessary to maintain equipment)
Section 8:	Team Members: (List team members and their capacity to achieve the goals of proposed project)

5. Amount Requested:

Supported by the information provided in item 5, above, please state your requested Agricultural Grant Energy funding request. MDAR has the option to negotiate the requested amount before entering into a contract with the applicant.

TOTAL COST REQUESTED FOR FUNDING THROUGH AG-ENERGY GRANT

\$ _____

6. Attestation:

By signing this application you attest all statements herein are accurate and true. By signing this application you also give permission for MDAR to review your NRCS Farm Plan if you have one. You also give permission to have a site visit by MDAR staff which will be necessary before a funding decision is made. All site visits will be arranged with you in advance.

Signature: _____

Date: _____

Please complete and return the proposal response form and appropriate documentation by the appropriate deadline as described on page 7.

Section III **RFR Specifications**

CONTRACT AND PERFORMANCE SPECIFICATIONS

1. PURPOSE OF PROCUREMENT: The purpose of the Ag-Energy Grant Program is to improve energy efficiency and to facilitate adoption of alternative clean energy technologies within agricultural practices in order that they can become more sustainable and the Commonwealth can maximize the environmental and economic benefits from these technologies.

2. ACQUISITION METHOD: Fee for Service

3. SINGLE OR MULTIPLE CONTRACTORS FOR CONTRACT PERFORMANCE: Multiple Contractors

4. SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFR: Single

5. TOTAL ANTICIPATED DURATION OF CONTRACTS:

Initial Contract Duration: Through June 30th 2012. Maximum obligation of \$30,000 per contract.
Options to Renew: 2(two) 1 year options to renew. Options to Renew not to exceed: 1 year each
Extensions of contracts may be granted solely at the discretion of the Department and subject to funding source and regulations. Any extension must be agreed upon in writing by all parties.

6. TOTAL ANTICIPATED EXPENDITURES FOR TOTAL ANTICIPATED DURATION OF CONTRACT(S):

Estimated Value of Procurement: **Approximately \$475,000**

☒ Contracts will have a Maximum Obligation Amount.

RFR ATTACHMENTS TO BE COMPLETED IF PROJECT IS SELECTED FOR CONTRACT DEVELOPMENT

The submitters of applications/responsive proposals that have been selected for contract development will be required to complete, execute and return some or all of the following documents: (Forms are available via the State Internet site <http://www.comm-pass.com>)

1. Commonwealth Terms and Conditions: If the Commonwealth Terms and Conditions has been executed and filed as a result of a previous contract with the Commonwealth of Massachusetts, vendors selected for contract development will be required to indicate this in your Response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract for Commodities and Services executed pursuant to this RFR. A Bidder is required to execute the Commonwealth Terms and Conditions only once.

2. Contractor Authorized Signatory Listing.

3. Verification of Taxation Reporting Information (W-9) Form.

4. Commonwealth Standard Contract.

5. Electronic Funds Transfer Form (EFT). (Optional)

In general, most of the required contractual stipulations are referenced in the Standard Contract Form and the Commonwealth Terms and Conditions (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

RFR Specifications

Issue Date: November 1, 2005

Refresh Date: August 13, 2007

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form and Instructions* and the *Commonwealth Terms and Conditions* (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

The terms of *801 CMR 21.00: Procurement of Commodities and Services* (and *808 CMR 1.00: Compliance, Reporting and Auditing for Human and Social Services*, if applicable) are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

Items with the text, " *Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social

services procured under 801 CMR 21.00, *Procurement of Commodities or Services, Including Human and Social Services* and 808 CMR 1.00, *Compliance, Reporting and Auditing for Human and Social Service*.

Affirmative Market Program (AMP). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Affirmative Market Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the AMP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage bidder's participation of AMP objectives, the Affirmative Market Program (AMP) Plan for large procurements greater than \$50,000 will be evaluated at 10% or more of the total evaluation. Once an AMP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SOMWBA certified contractors to fulfill their own AMP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size, however, submission of an AMP Plan is mandated only for large procurements over \$50,000.00.

This RFR will contain some or all of the following components as part of the Affirmative Market Program Plan submitted by bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR,
- Growth and Development activities to increase M/WBE capacity,
- Ancillary use of certified M/WBE firms,
- Past Performance or information of past expenditures with certified M/WBEs and
- Additional incentives for bidders to commit to at least one certified MBE and WBE in the submission of AMP plans.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by the State Office of Minority and Women Business Assistance (SOMWBA). All certified businesses that are included in the bidder's AMP proposal are required to submit an up to date copy of their SOMWBA certification letter. The purpose for this certification is to participate in the Commonwealth's Affirmative Market Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date and submit proof of documentation of application for consideration with their bid proposal. For further information on SOMWBA certification, contact their office at 1-617-973-8692 or via the Internet at mass.gov/somwba.

Affirmative Market Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder's Affirmative Market Program (AMP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products. Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%. For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder's or contractor's response which results in lower costs or a more cost effective or better value than was presented in the selected bidder's or contractor's original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the PMT regarding this RFR except as specified in this RFR, and no other individual

Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

Bidders are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Bidder submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Bidder's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Bidders' Forum records related to this Solicitation (see Locating a Online Bidders' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Bidders may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management
- A customizable profile reflecting the subscriber's product/service areas of interest
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement
- Full-cycle, automated email alert whenever any record of interest is posted or updated
- Access to Online Response Submission, when allowed by the Issuer, to support:
 - paperless bid drafting and submission to an encrypted lock-box prior to close date
 - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any
 - withdrawal of submitted bids prior to close date
 - online storage of submitted bids

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. *☞ Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. *Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; or
2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the bidder to provide sufficient and specific evidence in support of its claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the State Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the State Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the PMT to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. A link to the EFT application can be found on the [OSD Forms](http://www.mass.gov/osd) page (www.mass.gov/osd). Additional information about EFT is available on the [VendorWeb](http://www.mass.gov/osc) site (www.mass.gov/osc). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.

- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- **Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.**
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

Filing Requirements. *Required for POS Only. Not applicable to non-POS bidders.* Successful bidders must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder's contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate's contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Federal Government Services Administration (GSA) or Veteran's Administration Supply. The Commonwealth reserves the right to request from the successful bidder(s) initial pricing schedules and periodic updates available under their GSA or other federal pricing contracts. In the absence of proprietary information being part of such contracts, compliance for submission of requested pricing information is expected within 30 days of any request. If the contractor receives a GSA or Veteran's Administration Supply contract at any time during this contract period, it must notify the Commonwealth contract manager.

Pricing: Price Limitation: The bidder must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the bidder must agree to provide current or historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the

applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller's Vendor Web system. The PPD form can be found under the Forms and Terms tab of this solicitation.

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. *☞ Required for POS Only. Not applicable to non-POS bidders.* The Executive Office of Health and Human Services (EOHHS) has established a Provider Data Management (PDM) business service that is integrated into the Virtual Gateway. PDM is accessible by providers with current POS contracts. Departments may require that bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders are required to include the signed PDM Documentation Summary in their RFR response.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.